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Paper No. 11

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OFFICE OF PETITIONS

In re Application of :
Blume, et al : DECISION ON PETITION
Application No. 09/608,620 :
Filed: June 30, 2000 :
Atty. Dkt. No.: 3309P-114 :

This decision is in response to the petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.67(a)(2) filed August 30, 2004.

The petition under 37 CFR 1.183 is **DISMISSED**.

In an Office communication mailed December 4, 2003, the Examiner objected to the declaration as four of the inventors named herein failed to provide the date of execution of the declaration. Petitioners herein request waiver of the requirements of 37 CFR 1.67(a)(2) as regards inventors R. Rozelle and A. Serwinowski whom petitioners allege cannot be reached or located to execute the supplemental declaration.

The requirements of 37 CFR 1.183 set forth that "[I]n an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(h)."

In accordance with 37 CFR 1.67(a), "[t]he Office may require, or inventors and applicants may submit, a supplemental oath or declaration meeting the requirements of § 1.63 or § 1.162 to correct any deficiencies or inaccuracies present in the earlier filed oath or declaration.

Further, 37 CFR 1.67(a)(2) states that "[d]eficiencies or inaccuracies relating to fewer than all of the inventor(s) or

applicant(s) (§§ 1.42, 1.43 or § 1.47) may be corrected with a supplemental oath or declaration identifying the entire inventive entity but signed only by the inventor(s) or applicant(s) to whom the error or deficiency relates.

Petitioners herein state that attempts to mail supplemental declarations to inventors R. Rozelle and A. Serwinowski at their last known addresses were unsuccessful and that the packages containing the supplemental declarations were returned as undeliverable.

Petitioners have failed to establish the existence of an "extraordinary situation." While petitioners state they have attempted to contact the inventors via the inventors last known addresses to no avail, petitioners have failed to provide any evidence of subsequent efforts to locate the inventors. At the very least, a search of the internet, telephone directories, and international registries should be undertaken in regions where it is suspected the inventors may reside. Petitioners should reference and supply evidence of any such searches in a renewed petition.

Moreover, while petitioners allege the inventors cannot be reached or located via their last known addresses, a cursory review of Lexis®.com EZFIND Combined Person Locator Nationwide database indicates that the inventors may have more recently resided as follows:

A. SERWINOWSKI
10142 NW 69TH MNR
PARKLAND, FL 33076

R. ROZELLE
7696 HILLSIDE DR., APT. 248
WEST BLOOMFIELD, MI 48322-2852

Any renewed petition must establish that diligent efforts have been made to reach or locate the herein referenced inventors for execution of the supplemental declaration.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTH** from mail date of this decision. Such request may include declarations executed by the inventor(s). Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.183."

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petition

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile:

(703) 308-6916

By hand:

Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

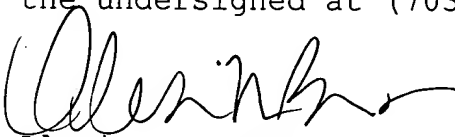
By delivery service:

U.S. Patent and Trademark Office
(FedEx, UPS, DHL, etc.) 2011 South Clark Place
Customer Window, **Mail Stop Petition**
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

This application is being returned to the Office of Publications for further processing of the amendment submitted March 18, 2003 in response to the "Notice to File Corrected Application Papers," mailed March 31, 2003.

This application is being forwarded to Technology Center 2100 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0310.



Alesia M. Brown
Senior Petitions Attorney
Office of Petitions